## REMARKS/ARGUMENTS

Claims 1, 3, and 5-12 are active. Claim 4 has been withdrawn from consideration. Claim 1 has been directed to a method involving glucide-containing biomasses and finds support at least on page 5, line 21 [0021] of the specification. Claims 5 and 6 find support in original claim 1 and page 11 [0023] of the specification. Claims 7-12 find support as follows: Claim 7 (page 13, lines 2-14), Claim 8 (page 5, line 18), Claim 9 (page 1, line 7, page 10, lines 11 *ff.*, page 20, line 26), Claim 10 (page 11, line 26), Claim 11 (page 10, line 22 *ff.*), and Claim 12 (page 17, line 20 *ff.*). Accordingly, the Applicants do not believe that any new matter has been added.

## Restriction/Election

The Applicants previously elected with traverse **Group I**, claims 1-3, directed to a method for producing a biogas. The requirement has been made FINAL. The Applicants understand that additional species will be rejoined and examined upon an indication of allowability for a generic claim reading on the elected species. The Applicants respectfully request that the claims of the nonelected group(s) which depend from or otherwise include all the limitations of an allowed elected claim, be rejoined upon an indication of allowability for the elected claim, see MPEP 821.04.

## Rejection—35 U.S.C. §112, second paragraph

Claims 1-3 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The term "maximum tolerable concentration" is defined on page 11 [0023] of the specification. This term "refers to the maximum value of concentration of the substrate allowing the substrate to be consumed predominantly by the hydrogen-fermenting microorganism for the hydrogen fermentation". The maximum value can depend on certain

variables, such as substrate, temperature, type of microorganism, and type of non-hydrogen fermenting contaminating microorganism, but for a particular liquid substrate and mixture of microorganisms it can be definitely determined. Accordingly, the Applicants respectfully submit that this term when read in light of the specification is definite.

Rejection—35 U.S.C. §102

Claims 1-2 were rejected under 35 U.S.C. §102(b) as being anticipated by Taguchi, et al., U.S. Patent No. 5,350,685. Taguchi, Examples 2 and 3 in cols. 7-8, to which the Examiner refers, discloses fermentation of a mixture containing a single type of hydrogen-fermenting microorganism. On the other hand, claim 1 refers to a method in which there is a hydrogen-fermenting microorganism as well as a non-hydrogen fermenting microorganism. Accordingly, this rejection may be withdrawn since Taguchi does not disclose such a mixture or disclose a "maximum tolerable concentration" of glucide as defined by the present specification (i.e., selecting a glucide concentration which is predominantly consumed by the hydrogen-fermenting microorganism rather than the non-hydrogen-fermenting contaminant microorganism.

Furthermore, Taguchi does not disclose or suggest calculating a maximum tolerable concentration of a glucide in the biomass because it does not recognize the significance of selecting a concentration below the maximum tolerable concentration for providing efficient biogas production and minimize growth and fermentation of microorganisms that inhibit biogas formation, such as lactic acid bacteria. Taguchi do not disclose or suggest any means for inactivating a contaminant microorganism inhibiting hydrogen fermentation without affecting the growth or activity of a desirable hydrogen-fermenting microorganism. Accordingly, this document cannot anticipate or render the present invention obvious and this rejection should now be withdrawn.

Rejection—35 U.S.C. §103(a)

Claims 1-3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Taguchi, et al., U.S. Patent No. 5,350,685 in view of Kishimoto, et al., JP 61-008200. This rejection is moot in view of the cancellation of the prior claims or the amendments above.

Conclusion

In view of the amendments and remarks above, the Applicants respectfully submit that this application is now in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

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